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09/878,685	06/11/2001	John A. Josko	85CE-00110	2016

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John S. Beulick
Armstrong Teasdale LLP
Suite 2600
One Metropolitan Sq.
St. Louis, MO 63102

EXAMINER

CHENCINSKI, SIEGFRIED E

ART UNIT	PAPER NUMBER
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3691

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01/02/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/878,685	JOSKO ET AL.	
	Examiner	Art Unit	
	Siegfried E. Chencinski	3691	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,4,7-14,16-21,26-28,30-32 and 49-61 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,4,7-14,16-21,26-28,30-32 and 49-61 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1, 2, 7, 11, 16, 26, 30 & 61 are rejected under 35 U.S.C. 103(a) as being disclosed by Regan (US Patent 6,898,574 B1) in view of Dugan (US Patent 5,857,174).

Re. Claim 1, Regan discloses a system for soliciting, receiving and managing appraisals for a business engaged in providing financing to a customer, wherein the financing is secured by an asset, each appraisal is submitted to the business by an appraiser and values the asset securing the loan, said method comprising the steps of:

- a database for storing data including a plurality of appraisals submitted by a plurality of appraisers, wherein each appraisal describes and values a different asset used for securing a financing, wherein access to said database is restricted to users associated with the business (This is implicit and obvious in Regan, Col. 10, ll. 21-50);
- a database for storing appraisal bid request data including information describing at least one asset to be appraised, wherein access to said second database is restricted to registered users (This is implicit and obvious in Regan, Col. 10, ll. 21-50);
- a system associated with the appraiser (This is implicit and obvious in Regan, Col. 10, ll. 21-50);
- a business server coupled to said first and second databases and said client system, said server programmed to:
 - a client system associated with each of the plurality of the appraisers (Col. 2, ll. 11-19; Col. 9, ll. 13-22; 39-47; implicit in col. 10, ll. 28-31).

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- retrieve data from said second database and display on the client system an appraisal bid request including information describing a specific asset to be used for securing a financing (Col. 10, ll. 28-35);
- receive a response from each of the appraisers to the appraisal bid request displayed on the client system (Col. 10, ll. 35-45);
- prompt a user associated with the business to select one of the plurality of appraisers to provide an appraisal (Col. 9, ll. 39-47; Col. 11, ll. 49-58);
- Prompt the selected appraiser by displaying an appraisal template comprising a plurality of data fields on the client system to input an appraisal including a type and a value of the asset being appraised (Col. 10, ll. 35-45);
- receive the appraisal template and store the received appraisal template within said first database based on the type of asset being appraised and the selected appraiser submitting the appraisal (Col. 10, ll. 42-45);
- transmit the data received through the appraisal template to a plurality of users associated with the business (Col. 12, ll. 9-14);
- determine whether the submitted appraisal template contains data in each of the plurality of data fields, when at least one of the plurality of data fields does not contain data the selected appraiser is notified that the appraisal template is incomplete and is requested to resubmit the appraisal template containing data in each of the plurality of data fields (Col. 11, ll. 61-65); and
- process the plurality of appraisals stored, within said first database including valuing an asset to be appraised by comparing the type of asset to be appraised with the types of assets stored within said first database (Col. 10, l. 27).
- receive a sold amount for each asset stored within said first database after the asset is sold;
- store each sold amount for each asset sold within said first database;

- compare the sold amount for each asset sold to the value of the asset included within the appraisal stored within said first database; and
- determine an accuracy of an appraiser based on the comparison of the sold amount of an asset to the appraised value of the asset.
- categorize each of the plurality of appraisers based on the determined accuracy to predict appraiser performance on subsequent appraisals.

Regan does not explicitly disclose

- the explicit terminology of a first database and a second database.
- processing the plurality of appraisals stored within the database including valuing an asset to be appraised by comparing the type of asset to be appraised with the types of assets stored within said first database.
- receive a sold amount for each asset stored within said first database after the asset is sold;
- store each sold amount for each asset sold within said first database;
- compare the sold amount for each asset sold to the value of the asset included within the appraisal stored within said first database;
- determine an accuracy of an appraiser based on the comparison of the sold amount of an asset to the appraised value of the asset; and
- categorize each of the plurality of appraisers based on the determined accuracy to predict appraiser performance on subsequent appraisals.

However, a first database, a second database and a client system are implicit and obvious in Regan, Col. 10, ll. 21-50.

Also, Dugan discloses

- valuing an asset to be appraised by comparing the type of asset to be appraised with the types of comparable assets stored within a database which have recently been sold (col. 1, ll. 47-50).
- receiving a sold amount for each asset stored within said first database after the asset is sold (Col. 1, ll. 47-50);
- store each sold amount for each asset sold within said first database (implicit);

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- compare the sold amount for each asset sold to the value of the asset included within the appraisal stored within said first database (col. 1, ll. 47-50); and
- determine an accuracy of an appraiser based on the comparison of the sold amount of an asset to the appraised value of the asset (The determining of the accuracy of an appraiser is implicit in the Dugan disclosure because the entire focus of Dugan's disclosure is on improving the appraiser's accuracy in making appraisals (Title; Col. 1, ll. 47-50; col. 2, ll. 1-7;). Col. 1, ll. 47-50 discloses the measuring of appraisal accuracy based on a comparison of an appraised amount to a sold amount. It would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to have evaluated an appraiser's accuracy by comparing his appraised amount with the actual sales prices of comparable properties and to an actual sales price of the same unit were it to sell within the same window of time as the appraisal. However, such a timely sale is often not the case or even rare, since the prime determinants of sales price are local market supply and demand, and these determinants are constantly shifting due to the dynamic local seasonal patterns of supply and demand, and the effects of the national and regional economies which follow a different set of patterns and stimuli. This leaves the most comparable local neighborhood sales prices as the only practically available and obvious yardstick of appraisal accuracy. These, in turn, are the obvious yard sticks for measuring an appraiser's appraisal accuracy).
- categorizing each of the plurality of appraisers based on the determined accuracy to predict appraiser performance on subsequent appraisals is an obvious step suggested by Dugan because of Dugan's disclosure of steps for determining the accuracy of an appraiser, which in turn makes obvious a comparison of appraisers, since this is the obvious suggested purpose of determining the accuracy of each of a plurality of appraisers being evaluated.

Therefore, it would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to have modified the teachings of Regan with the teachings of

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Dugan for the purpose of designing a system for obtaining an appraisal and measuring the accuracy of an appraiser, motivated by a desire to accurately and efficiently produce appraisals (Dugan, Col. 1, ll. 10-12).

Re. Claim 7, Regan discloses a system for soliciting, receiving and managing appraisals for a business engaged in providing financing to a customer, wherein the financing is secured by an asset each appraisal is submitted to the business by one of a plurality of appraisers and values the asset securing the loan, said system comprising:

- a database comprising data corresponding to a plurality of appraisals wherein each appraisal describes and values a different asset used for securing a financing, and appraisal bid request data including information describing at least one asset to be appraised (implicit in col. 10, ll. 21-50); and
- a client system associated with each of the plurality of appraisers (Col. 2, ll. 11-19; Col. 9, ll. 13-22; 39-47; implicit in col. 10, ll. 28-31); and
- a business server coupled to said database and said client system (Col. 10, ll. 21-50. The server is implicit), said server programmed to:
 - retrieve data from said database and display on the client system an appraisal bid request including information describing a specific asset to be used for securing a financing (Col. 10, ll. 28-35);
 - receive a response from each of the plurality of appraisers to the appraisal bid request displayed on the client system (col. 10, ll. 35-45);
 - prompt a user associated with the business to select one of the plurality of appraisers to provide an appraisal (Col. 9, ll. 39-47; Col. 11, ll. 49-58);
 - prompt the selected appraiser by displaying an appraisal template comprising a plurality of data fields on the client system to input an appraisal including a type and a value of the asset being appraised (Col. 10, ll. 35-45);

- receive the appraisal template and store the received appraisal template within said database based on the type of asset being appraised and the selected appraiser submitting the appraisal (Col. 10, ll. 42-45);
- transmit the data received through the appraisal template to a plurality of users (Col. 12, ll. 9-14);
- determine whether the submitted appraisal template contains data in each of the plurality of data fields, when at least one of the plurality of data fields does not contain data the selected appraiser is notified that the appraisal template is incomplete and is requested to resubmit the appraisal template containing data in each of the plurality of data fields (Col. 11, ll. 61-65); and
- receive a sold amount for each asset stored within said database after the asset is sold (col. 10, ll. 42-45);
- compare the sold amount for each asset sold to the value of the asset included within the appraisal stored within said database (Col. 10, ll. 27).

Reagan does not explicitly disclose determining an accuracy of each of the plurality of appraisers based on the comparison of the sold amount of an asset to the appraised value of the asset; and categorize each of the plurality of appraisers based on the determined accuracy to predict appraiser performance on subsequent appraisals. Please see the rejections of these two limitations in claim 1.

Therefore, it would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to have modified the teachings of Reagan with the teachings of Dugan for the purpose of designing a system for obtaining an appraisal, motivated by a desire to accurately and efficiently produce appraisals (Dugan, Col. 1, ll. 10-12).

Re. Claim 11, Reagan discloses a method for obtaining an appraisal for soliciting, receiving and managing appraisals for a business engaged in providing financing to a customer, wherein the financing is secured by an asset, each appraisal is submitted to

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the business by one of a plurality of appraisers and values the asset securing the loan, said method comprising the steps of:

- displaying on a client system an appraisal bid request including information describing a specific asset to be used for securing a financing (col. 10, 28-35);
- receiving a response from each of the plurality of appraisers to the appraisal bid request displayed on the client system (Col. 10, ll. 35-45);
- prompting a user associated with the business to select one of the plurality of appraisers to provide an appraisal (Col. 9, ll. 39-47; Col. 11, ll. 49-58);
- prompting the selected appraiser, by displaying an appraisal template comprising a plurality of data fields on the client system, to input an appraisal including a type and a value of the asset being appraised (Col. 10, ll. 35-45);
- receiving the appraisal template and storing the received appraisal template within a database based on the type of asset being appraised and the selected appraiser submitting the appraisal, **wherein** the database stores data including a plurality of appraisals, **wherein** each appraisal describes and values a different asset used for securing a financing (Col. 10, ll. 42-45);
- transmitting the data received through the appraisal template to a plurality of users associated with the business (Col. 12, ll. 9-14);
- determining whether the submitted appraisal template contains data in each of the plurality of data fields, when at least one of the plurality of data fields does not contain data the selected appraiser is notified that the appraisal template is incomplete and is requested to resubmit the appraisal template containing data in each of the plurality of data fields (Col. 11, ll. 61-65); and
- processing the plurality of appraisals stored within the database including valuing an asset to be appraised (Col. 10, l. 27).

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Regan does not explicitly disclose

- processing the plurality of appraisals stored within the database including valuing an asset to be appraised by comparing the type of asset to be appraised with the types of assets stored within said first database.
- receiving a sold amount for each asset stored within the database after the asset is sold;
- storing each sold amount for each asset sold within the database;
- comparing the sold amount for each asset sold to the value of the asset included within the appraisal stored within the database;
- determining an accuracy of each of the plurality of appraisers based on the comparison of the sold amount of an asset to the appraised value of the asset; and
- categorizing each of the plurality of appraisers based on the determined accuracy to predict appraiser performance on subsequent appraisals.

However, Dugan discloses valuing an asset to be appraised by comparing the type of asset to be appraised with the types of comparable assets stored within a database which have recently been sold (col. 1, ll. 47-50).

Please see the rejection of claim 1 regarding the processing, receiving, storing, comparing, determining and categorizing not explicitly disclosed by Regan.

Therefore, it would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to have modified the teachings of Regan with the teachings of Dugan for the purpose of designing a method for obtaining an appraisal, motivated by a desire to accurately and efficiently produce appraisals (Dugan, Col. 1, ll. 10-12).

Re. Claim 16, Regan discloses a method for obtaining an appraisal for soliciting, receiving and managing appraisals for a business engaged in providing financing to a customer, wherein the financing is secured by an asset, each appraisal is submitted to the business by one of a plurality of appraisers and values the asset securing the loan, said method comprising the steps of:

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- displaying on a client system an appraisal bid request including information describing a specific asset to be used for securing a financing (col. 10, 28-35);
- receiving a response from each of the plurality of appraisers to the appraisal bid request displayed on the client system (Col. 10, ll. 35-45);
 - prompting a user associated with the business to select one of the plurality of appraisers to provide an appraisal (Col. 9, ll. 39-47; Col. 11, ll. 49-58);
- prompting the selected appraiser, by displaying an appraisal template comprising a plurality of data fields on the client system, to input an appraisal including a type and a value of the asset being appraised (Col. 10, ll. 35-45);
- receiving the appraisal template and storing the received appraisal template within a database based on the type of asset being appraised and the selected appraiser submitting the appraisal, wherein the database stores data including a plurality of appraisals, wherein each appraisal describes and values a different asset used for securing a financing (Col. 10, ll. 42-45);
 - transmitting the data received through the appraisal template to a plurality of users associated with the business (Col. 12, ll. 9-14);
 - determining whether the submitted appraisal template contains data in each of the plurality of data fields, when at least one of the plurality of data fields does not contain data the selected appraiser is notified that the appraisal template is incomplete and is requested to resubmit the appraisal template containing data in each of the plurality of data fields (Col. 11, ll. 61-65);
- displaying on a client system an appraisal bid request including information describing a specific asset to be used for securing a financing (col. 10, 28-35);

- receiving a response from the appraiser to the appraisal bid request displayed on the client system (Col. 10, ll. 35-45);
- prompting the appraiser by displaying a template on the client system to input an appraisal including a type and a value of the asset being appraised (Col. 10, ll. 35-45);
- storing the inputted appraisal within a database based on the type of asset being appraised and the appraiser submitting the appraisal, wherein the database stores data including a plurality of appraisals submitted by a plurality of appraisers, wherein each appraisal describes and values a different asset used for securing a financing (Col. 10, ll. 42-45); and
- processing the plurality of appraisals stored within the database including valuing an asset to be appraised (Col. 10, l. 27).

Regan does not explicitly disclose

- processing the plurality of appraisals stored within the database including valuing an asset to be appraised by comparing the type of asset to be appraised with the types of assets stored within said first database;
- receiving a sold amount for each asset stored within the database after the asset is sold;
- comparing the sold amount for each asset sold to the value of the asset included within the appraisal stored within the database; and
- determining an accuracy of each of the plurality of appraisers based on the comparison of the sold amount of an asset to the appraised value of the asset (This is obvious in the Dugan disclosure);
- categorizing each of the plurality of appraisers based on the determined accuracy to predict appraiser performance on subsequent appraisals.

However, Dugan discloses valuing an asset to be appraised by comparing the type of asset to be appraised with the types of comparable assets stored within a database which have recently been sold (Col. 1, ll. 47-50). Implicit in Dugan's disclosure are

- processing the plurality of appraisals stored within the database including valuing an asset to be appraised by comparing the type of asset to be appraised with the types of assets stored within said first database;
- receiving a sold amount for each asset stored within the database after the asset is sold;
- comparing the sold amount for each asset sold to the value of the asset included within the appraisal stored within the database; and
- determining an accuracy of an appraiser based on the comparison of the sold amount of an asset to the appraised value of the asset (This is obvious in the Dugan disclosure).

Please see the rejection of claims 7, 1 and 11 regarding the rejection rationale for the limitations not explicitly disclosed by Regan.

Therefore, it would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to have modified the teachings of Regan with the teachings of Dugan for the purpose of obtaining an appraisal, motivated by a desire to accurately and efficiently produce appraisals (Dugan, Col. 1, ll. 10-12).

Re. Claim 17, Regan discloses a method wherein to display an appraisal template, the computer causes a web page to be displayed at an appraiser device, the web page comprising a plurality of data fields to be populated by the appraiser in order to complete the appraisal (LINKS – Col 1, l. 66; Col. 2, ll. 8-19; Col. 3, l. 21. An obvious use of links disclosed by Regan is to cause a web page to be displayed at an appraiser device merely by including the link in the e-mail which requests the appraisal, the web page comprising a plurality of fields to be populated by the appraiser in order to complete the appraisal – Col. 10, ll. 28-42). Therefore, it would have been obvious to the ordinary practitioner of the art at the time of Applicant's invention to modify the disclosure of Regan as appeared obvious to the ordinary practitioner of the art at the time in order to obtain an appraisal through a web page, motivated by a desire to assist users of appraisals in the efficient processing of their transactions (Regan, Col. 1, ll. 7-9).

Re. Claim 19, Regan discloses a method comprising operating the computer to search the database to retrieve a stored appraisal (Col. 10, l. 45. Searching for the stored appraisal record is implicit.).

Re. Claim 20, Regan discloses a method comprising operating the computer to search the database to retrieve data corresponding to a requested report (Searching to retrieve documents is implicit.).

Re. Claim 21, Regan discloses a method wherein the received data comprises an image of the appraised asset (Col. 7, ll. 57-59; Col. 10, l. 43).

Re. Claims 26 & 30, Regan discloses an apparatus and a computer-readable storage medium for soliciting, receiving and managing appraisals for a business engaged in providing financing to a customer wherein the financing is secured by an asset, each appraisal is submitted to the business by one of a plurality of appraisers and values the asset securing the loan, said apparatus comprising:

- means for storing data within a database including a plurality of appraisals, wherein each appraisal describes and values a different asset used for securing a financing, wherein access to said first database is restricted to users associated with the business (Implicit in col. 10, ll. 21-50; Col. 9, ll. 42-47; Col. 10, ll. 28-31, 35-45);
- means for retrieving data from the database and displaying on a client system an appraisal bid request including information describing a specific asset to be used for securing a financing (col. 10, ll. 21-39);
- means for receiving a response from each of the plurality of appraisers to the appraisal bid request displayed on the client system (Col. 10, ll. 35-45);
- means for prompting a user associated with the business to select one of the plurality of appraisers to provide an appraisal (Col. 9, ll. 39-47; Col. 11, ll. 49-58);
- means for prompting the selected appraiser, by displaying an appraisal template comprising a plurality of data fields on the client system, to input an appraisal including a type and a value of the asset being appraised (Col. 10, ll. 35-45);

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- receiving the appraisal template and storing the received appraisal template within a database based on the type of asset being appraised and the selected appraiser submitting the appraisal (Col. 10, ll. 42-45);
- means for transmitting the data received through the appraisal template to a plurality of users associated with the business (Col. 12, ll. 9-14);
- means for determining whether the submitted appraisal template contains data in each of the plurality of data fields, when at least one of the plurality of data fields does not contain data the selected appraiser is notified that the appraisal template is incomplete and is requested to resubmit the appraisal template containing data in each of the plurality of data fields (Col. 11, ll. 61-65);
- means for prompting the appraiser by displaying a template on the client system to input an appraisal including a type and a value of the asset being appraised (Col. 10, ll. 35-45);
- means for storing the inputted appraisal within the database based on the type of asset being appraised and the appraiser submitting the appraisal (Col. 10, ll. 42-45); and
- means for processing the plurality of appraisals stored within the database (col. 10, l. 27).

Regan does not explicitly disclose valuing an asset to be appraised by comparing the type of asset to be appraised with the types of assets stored within said first database. However, Dugan discloses valuing an asset to be appraised by comparing the type of asset to be appraised with the types of comparable assets stored within a database which have recently been sold (col. 1, ll. 47-50).

Please see the rejection of claim 1 regarding the system rejection logic for the means for and storage medium limitations added on October 18, 2007 for receiving a sold amount ... , storing each sold amount ... , comparing the sold amount ... , determining an accuracy of each of the plurality of appraisers ... and categorizing each of the plurality of appraisers Therefore, it would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to have modified the teachings

of Regan with the teachings of Dugan for the purpose of designing an apparatus and computer-readable medium for obtaining an appraisal, motivated by a desire to accurately and efficiently produce appraisals (Dugan, Col. 1, ll. 10-12).

Re. Claim 61, Regan does not explicitly disclose wherein the business server is further programmed to display a list of the plurality of appraisers categorized based on accuracy to predict appraiser performance. Regan does disclose a programmed server regarding appraisals and appraisers and displaying information. Please see the rejection of claim 1 for the rejection rationale of the categorizing of appraisers based on accuracy to predict appraiser performance.

2. Claims 3, 4, 8-10, 27, 28, 31 & 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Regan in view of Dugan as applied to claims 1, 7, 11, 26 and 30 above, and further in view of Official Notice.

Re. Claims 3, 4, 8-10, 27, 28, 31 & 32, neither Regan nor Dugan explicitly disclose:

Re. Claim 3, wherein said pages comprise ASP pages and HTML pages, and wherein XSL files are stored in said web server.

Re. Claim 4, comprising at least one client system comprising a browser, said browser configured to communicate with said web server.

Re. Claim 8, wherein said business server is further programmed to receive data corresponding to prospective users and provide the prospective user data to the database.

Re. Claim 9, comprising a web server coupled to said business server, said web server comprising a memory having a plurality of HTML pages stored therein.

Re. Claim 10, comprising a user terminal comprising a browser, said browser configured to communicate with said web server.

Re. Claim 27, an apparatus wherein said means for retrieving data comprises a web server coupled to a user terminal comprising a browser.

Re. Claim 28, an Apparatus wherein said means for prompting the appraiser comprises a web server coupled to a system server.

Re. Claim 31, a computer readable medium wherein said processing further

comprises the steps of retrieve and update data in an appraisal application database, and retrieve and update data in a registered user database.

Re. Claim 32, a computer readable medium wherein said pages comprise ASP pages and HTML pages.

However, **re. claims 3, 4, 8-10, 31 & 32**, the examiner serves Official Notice that it would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention that ASP pages, HTML pages, XSL files, client systems, browsers, computer apparatus, storage media, multiple databases for storing various types of data, and servers (including web servers) and coupling of hardware including servers, all dedicated and programmed to perform various functions including those of retrieving and updating data in the databases, to cause web pages to be displayed to authorized outside parties and to prompt such authorized participants to access such stored items as an appraisal application. All of these tools are well known to ordinary practitioners of the art who make use of available computer tools to produce more efficient methods of doing business. Therefore, it would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to have modified the teachings of Regan with the well known computer systems art for the purpose of operating a computer based system for the administration of activities such as appraisals, motivated by a desire to assist users of appraisals in the efficient processing of their transactions (Regan, Col. 1, ll. 7-9).

3. Claims 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Regan in view of Dugan as applied to claim 11 above, and further in view of Official Notice and Zandi.

Re. Claims 12-14, neither Regan nor Dugan explicitly disclose a method of

Re. Claims 12, displaying on a client system an appraisal bid request comprises the steps of contacting a plurality of appraisers and requesting each appraiser to submit a bid to perform an appraisal.

Re. Claim 13, Regan discloses a method comprising the step of receiving a plurality of bids and selecting an appraiser based at least in part on the bid submitted by that appraiser.

Re. Claim 14, Regan discloses a method comprising the step of notifying the selected appraiser that the bid has been accepted and that the appraiser is to perform the appraisal.

However, **re. claims 12-14**, the examiner gives Official Notice that the method of notifying prospective vendor/bidders of a desire to receive bids for some specific aspect of their service(s) is a well known practice throughout commerce. For example, Zandi discloses a process of requesting bids from a plurality of bidders (Col. 10, ll. 3-7), receiving a plurality of bids in electronic form from at least some of the notified bidder candidates (Col. 10, l. 9), selecting one of the bids (Col. 9, ll. 9-12), and notifying the selected bidder to perform the service in accordance with the bid (Col. 9, ll. 9-12). Therefore, it would have been obvious to the ordinary practitioner of the art at the time of Applicant's invention to modify the disclosure of Regan with the disclosure of Zandi in order to obtain an appraisal through a competitive bidding process, motivated by the desire to more conveniently enable someone to efficiently choose among bids the one that offers the most favorable terms (Zandi, Col. 1, ll. 7-12; Col. 3, ll. 27-29).

4. Claim 18 is rejected under 35 U.S.C. 103(a) as being disclosed by Regan in view of Dugan as applied to claim 16 above, and further in view of Broerman.

Re. Claim 18, neither Regan nor Dugan explicitly disclose a method wherein the user device comprises a wireless device and/or the appraisal is received from a wireless device. However, Broerman discloses a method wherein the user device comprises a wireless device (Use of a wireless device - Col. Col. 4, l. 36; Col. 5, ll. 3-4. Involvement of appraisers – Col. 12, l. 16). It would have been obvious to the ordinary practitioner of the art at the time of Applicant's invention to modify the disclosure of Regan and Dugan with the art of Broerman in order to make use of wireless devices in the communications process involving the obtaining of appraisals, motivated by a desire to a method that

assists in the automated and efficient provision of services which make use of appraisals (Zandi, Col. 2, ll. 10-15).

5. Claims 49, 51, 53, 55, 57 & 59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Regan in view of Dugan as applied to claims 1, 7, 11, 16, 26 and 30 above, and further in view of the Microsoft Computer Dictionary (Third Ed., 1997, hereafter MS Dictionary).

Re. Claims 49, 51, 53, 55, 57 & 59, Regan's disclosure is discussed in the rejection of claim 1 above. Regan discloses that the Appraiser is presented with an appraisal screen on which the appraiser is asked to enter information on a standardized form, and that various forms are provided for a variety of property types (Col. 10, ll. 21-50). Regan does not explicitly disclose "appraisal templates" nor does he disclose "limiting conditions" in an appraisal report. Regan discloses that the format for the appraisal screen can be generated using a conventional WINDOWS graphical user interface. MS Dictionary discloses the use of templates in the creation of reports on computer systems (template 5. In word processing a predesigned document that contains formatting and, in many cases, generic text). It would have been obvious to the ordinary practitioner at the time of Applicant's invention to have made use of writing of "limiting conditions" into appraisal reports. However, Dugan discloses the writing of appraisal "limiting conditions" into appraisal reports as part of a full outline of what an appraisal report should contain (Col. 11, l. 54 – Col. 12, l. 10; limiting conditions – Col. 11, l. 67). Therefore, it would have been obvious to the ordinary practitioner of the art at the time of Applicant's invention to modify the disclosure of Regan and Dugan with the disclosure of MS Dictionary to include information about the contents of the appraisal template, motivated by a desire to assist users of appraisals in the efficient processing of their transactions (Regan, Col. 1, ll. 7-9).

6. Claims 50, 52, 54, 56, 58 & 60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Regan in view of Dugan and MS Dictionary.

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Re. Claims 50, 52, 54, 56, 58 & 60, Regan's disclosure is discussed in the rejection of claims 1, 49, 51, 53, 55, 57 & 59 above. Regan also discloses the appraisal as a task (Col. 10, l. 35). Regan does not explicitly disclose that "limiting conditions include tasks the appraiser performed and did not perform in completing the appraisal". The ordinary practitioner would have seen it as obvious that the many components of the appraiser's appraisal work can be described as tasks, or sub tasks of the overall task of performing and reporting an appraisal. Dugan discloses a substantial amount of detail to illustrate the contents of a standard appraisal report (Col. 11, l. 54 – Col. 12, l. 10). In this disclosure Dugan includes two special categories: (7) "all assumptions and limiting conditions that affect the analysis, opinions, and conclusions," (8) a summary of the information considered, appraisal procedures followed, and the reasoning which supports the analysis, opinions and conclusions", and "(10) explanation of whether any of the usual valuation approaches have been excluded and reasons for the exclusion". Col. 11, l. 66 – Col. 12, l. 7). The ordinary practitioner of the art at the time of Applicant's invention would have seen it as obvious to have reduced these guidelines into a summary such as "limiting conditions include tasks the appraiser performed and did not perform in completing the appraisal". Therefore, it would have been obvious to the ordinary practitioner of the art at the time of Applicant's invention to modify the disclosure of Regan and Dugan with the disclosure of MS Dictionary to include information about the contents of the appraisal template and related appraisal tasks, motivated by a desire to assist users of appraisals in the efficient processing of their transactions (Regan, Col. 1, ll. 7-9).

Response to Arguments

7. Applicant's arguments filed October 18, 2007 with respect to claims 1-61 have been fully considered but they are not persuasive.

ARGUMENT: **TEACHING AWAY:** "Neither Regan nor Dugan, nor any of the other cited art, teaches or suggests each and every limitation recited in amended claim 1. In fact, both Regan and Dugan teach away from amended claim 1. Regan discloses a drop-down list of multiple agents, but fails to teach or suggest any notion of categorizing

or ordering the agents based on historic appraisal accuracy. Further, it would be unreasonable to infer such features from Regan at least because Regan fails to identify any problem, or provide any motivation, to make such an inference. Rather, Regan is directed to providing real-time interaction between the lender or insurer and recovery agent, and does so via a simple user interface (the Recovery Module 140).

Similarly, Dugan is directed to improving the accuracy of an appraisal, but not to comparing, categorizing, or ordering (based on historic appraisal accuracy) a plurality of appraisers appraising multiple items over time. It would be unreasonable to infer such features from Dugan at least because Dugan fails to identify any problem, or provide any motivation, to make such an inference. Dugan teaches away at least because Dugan only discloses improving the accuracy and efficiency in a single appraisal, not tracking multiple appraisals from multiple appraisers over time." (P. 15, L. 21 – P. 16, L. 7).

RESPONSE:

(1) Restating Applicant's argument, Applicant argues that

- a) Regan teaches away from the newly entered limitation of "fails to teach or suggest any notion of categorizing or ordering the agents based on historic appraisal accuracy", and that would be unreasonable to such a feature from Regan's disclosure.
- b) Dugan teaches away from the newly entered limitation of "fails to teach or suggest any notion of categorizing or ordering the agents based on historic appraisal accuracy" because "comparing, categorizing, or ordering (based on historic appraisal accuracy) a plurality of appraisers appraising multiple items over time" and that it would be unreasonable to infer such a limitation from Dugan's disclosure.

(2) The examiner is rejects the newly amended limitations involving the categorizing of appraisers in this Office Action (see above) because, as stated in the rejection of claim 1, "categorizing each of the plurality of appraisers based on the determined accuracy to predict appraiser performance on subsequent appraisals is an obvious step suggested by Dugan because of Dugan's disclosure of steps for determining the accuracy of an appraiser, which in turn makes obvious a comparison of appraisers, since this is the

obvious suggested purpose of determining the accuracy of each of a plurality of appraisers being evaluated”.

(4) Regan is neutral regarding categorizing of appraisers. He does not teach away from such categorizing. Applicant fails to provide a reasonable rationale for supporting this argument as required by the MPEP. The examiner fails to see how a disclosure “for soliciting, receiving and managing appraisals for a business engaged in providing financing to a customer” (beginning of the rejection of claim 1) is teaching away from categorizing appraisers without explicitly doing so. In fact, this stands against common sense when Regan is neutral on the subject (Common sense per the US Supreme Court in the KSR decision, April, 2007).

(5) Therefore, in the instant case, with Regan being neutral on the subject of categorizing appraisers and Dugan suggesting such categorization, it is unreasonable to conclude that the combination of Regan with Dugan teaches away from categorizing appraisers.

(6) A proper *prima facie* case of obviousness constructed by an examiner does not have to follow Applicant assertion that it has to have show that the references “teach or suggest every limitation recited in any of the claims, such as in a rejection of claim 1”, which Applicant has chosen to argue as exemplary.

The Matter of Law stands as follows:

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PRINCIPLES OF LAW

“Section 103 forbids issuance of a patent when ‘the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.’” *KSR Int’l Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 1734, 82 USPQ2d 1385, 1391 (2007). The question of obviousness is resolved on the basis of underlying factual determinations including (1) the scope and content of the prior art, (2) any differences between the claimed subject matter and the prior art, (3) the level of skill in the art. *Graham v. John Deere Co.*, 383 U.S. 1, 17-18, 148 USPQ 459, 467 (1966). *See also KSR*, 127 S.Ct. at 1734, 82 USPQ2d at 1391 (“While the sequence

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of these questions might be reordered in any particular case, the [*Graham*] factors continue to define the inquiry that controls.”) The Court in *Graham* further noted that evidence of secondary considerations, such as commercial success, long felt but unsolved needs, failure of others, etc., “might be utilized to give light to the circumstances surrounding the origin of the subject matter sought to be patented.” 383 U.S. at 18, 148 USPQ at 467.

In *KSR*, the Supreme Court emphasized “the need for caution in granting a patent based on the combination of elements found in the prior art,” *id.* at 1739, 82 USPQ2d at 1395, and discussed circumstances in which
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a patent might be determined to be obvious without an explicit application of the teaching, suggestion, motivation test.

In particular, the Supreme Court emphasized that “the principles laid down in *Graham* reaffirmed the ‘functional approach’ of *Hotchkiss*, 11 How. 248.” *KSR*, 127 S.Ct. at 1739, 82 USPQ2d at 1395 (citing *Graham v. John Deere Co.*, 383 U.S. 1, 12, 148 USPQ 459, 464 (1966) (emphasis added)), and reaffirmed principles based on its precedent that “[t]he combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results.” *Id.* The Court explained:

When a work is available in one field of endeavor, design incentives and other market forces can prompt variations of it, either in the same field or a different one. If a person of ordinary skill can implement a predictable variation, §103 likely bars its patentability. For the same reason, if a technique has been used to improve one device, and a person of ordinary skill in the art would recognize that it would improve similar devices in the same way, using the technique is obvious unless its actual application is beyond his or her skill.

Id. at 1740, 82 USPQ2d at 1396. The operative question in this “functional approach” is thus “whether the improvement is more than the predictable use of prior art elements according to their established functions.” *Id.*

The Supreme Court made clear that “[f]ollowing these principles may be more difficult in other cases than it is here because the claimed subject matter may involve more than the simple substitution of one known element for another or the mere application of a known technique to a piece of prior art ready for the improvement.” *Id.* The Court explained, “[o]ften, it will be

necessary for a court to look to interrelated teachings of multiple patents; the effects of demands known to the design community or present in the marketplace; and the background knowledge possessed by a person having ordinary skill in the art, all in order to determine whether there was an apparent reason to combine the known elements in the fashion claimed by the patent at issue.” *Id.* at 1740-41, 82 USPQ2d at 1396. The Court noted that “[t]o facilitate review, this analysis should be made explicit. *Id.* (citing *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006)) (“[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness”). However, “the analysis need not seek out precise teachings directed to the specific subject matter of the challenged claim, for a court can take account of the inferences and creative steps that a person of ordinary skill in the art would employ.” *Id.* at 1741, 82 USPQ2d at 1396.

(7) Applicant has merely argued that the dependent claims are allowable because they depend from the independent claims. Since the independent claims are not allowable, the dependent claims are not allowable.

(8) Therefore, in the instant case, the examiner believes that he has made a proper case of *prima facie* obviousness in the rejection in the Office Action because he has properly presented the *In re Kahn* considerations quoted above by the Supreme Court in its KSR decision.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Siegfried Chencinski whose telephone number is (571)272-6792. The Examiner can normally be reached Monday through Friday, 9am to 6pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Alexander Kalinowski, can be reached on (571) 272-6771.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

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published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks, Washington D.C. 20231

or (571)273-8300 [Official communications; including After Final communications labeled "Box AF"]

(571) 273-6792 [Informal/Draft communications, labeled "PROPOSED" or "DRAFT"]

Hand delivered responses should be brought to the address found on the above USPTO web site in Alexandria, VA.

SEC

December 20, 2007



NARAYANSWAMY SUBRAMANIAN
PRIMARY EXAMINER